

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION No.18424 of 2015

ORDER: (*Per Hon'ble Sri Justice R. Subhash Reddy*)

In this writ petition, the petitioner has questioned the order dated 09.06.2015 in I.A.No.2151 of 2015 in S.A.No.165 of 2015 on the file of the Debts Recovery Tribunal, Hyderabad.

Petitioner is a construction Company and it availed cash credit loan facility of Rs.20.00 lakhs and bank guarantee of Rs.55.00 lakhs from the 1st respondent Bank in the year 2006. When the petitioner defaulted in paying the amount, the respondent Bank initiated proceedings under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). The sale notice dated 08.05.2015, which is the subject matter of challenge by way of amendment before the Debts Recovery Tribunal, Hyderabad (for short 'the Tribunal'), is the 3rd in sequence. Earlier when the secured asset of the petitioner was sought to be put for sale on 14.03.2015 pursuant to the sale notice dated 10.02.2015, the petitioner has questioned the same before the Tribunal by filing S.A.No.165 of 2015, and the Tribunal, having regard to the quantum of claim involved in the matter, which is Rs.58,10,297.50 ps as on 11.03.2015, directed the petitioner to deposit a sum of Rs.12,00,000/- in two instalments and granted stay of auction, by order dated 12.03.2015. It was further observed by the Tribunal that if the petitioner fails to deposit the said amount, the Bank shall be at liberty to proceed with the sale of the property. However, the petitioner has not complied with the said condition and, as such, in terms of the

directions issued by the Tribunal in the order dated 12.03.2015, further sale notice dated 08.05.2015 was issued by the Bank to conduct auction of the secured asset. Consequent thereto, the petitioner filed applications being I.A.Nos.2150 & 2151 of 2015 for amendment of S.A.No.165 of 2015 and for stay of the auction sale of the secured asset scheduled to be held on 12.06.2015 pursuant to the sale notice dated 08.05.2015. By impugned order dated 09.06.2015, the Tribunal, while allowing the amendment application being I.A.No.2150 of 2015, rejected the stay application in I.A.No.2151 of 2015 and directed the matter to be posted for final hearing on 27.07.2015.

Heard learned counsel for the petitioner and learned Standing Counsel for the 1st respondent Bank.

Although it is contended that the worth of the secured asset is about Rs.80.00 lakhs, but the reserved price is fixed at Rs.45.00 lakhs, and the Bank has not followed the procedure contemplated under the SARFAESI Act, it is to be noticed that S.A.No.165 of 2015 is pending before the Tribunal and is coming up for final hearing. In any event, even on the earlier occasion when the sale notice was challenged, the Tribunal has directed the petitioner to deposit a sum of Rs.12.00 lakhs in two instalments, but the petitioner failed to comply with the same. Further, in the impugned order, the Tribunal has observed that any action taken by the Bank during pendency of the proceedings would be subject to final outcome of the proceedings. As much as the impugned order is an interim order passed by the Tribunal and the main S.A is pending and as the petitioner has not complied with the condition imposed by the Tribunal at an earlier point of time when the secured asset was sought to be put to sale on 14.03.2005 pursuant to the sale notice dated 10.02.2015, we do not find any merit in the writ petition to interfere with the impugned order.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

24.06.2015

v v